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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/313,079	05/17/1999	TOMOAKI KOJIMA	Q54398	3430

7590

01/15/2004

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WASHINGTON, DC 200373202

EXAMINER

TRAN, PHUC H

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 01/15/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/313,079

Applicant(s)

KOJIMA, TOMOAKI

Examiner

PHUC H TRAN

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,12 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4 and 12 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☒ Claim(s) 3,4,12 and 18-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 3,4,12, and 28, drawn to queue data in particular storing and queuing arrangement, classified in class 370, subclass 412.
 - II. Claims 18-28, drawn to control data admission to a buffer, classified in class 370, subclass 230.
2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I or II has separate utility such as queuing arrangement and controlling buffer. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and vice versa, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143)

Claim Objections

3. Claim 4 is objected to because of the following informalities: “new data regarding at least one of a new service category and a new QoS class” is insufficient antecedent basis for this limitation in the claim as describing in the specification page 19, lines 22-23. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soumiya et al. (U.S. Patent No. 5696764) in view of Ichikawa (U.S. Patent No. 6301253 B1).

- With respect to claims 3, 4 & 12, teaches ATM switch comprising:

a buffer device which comprises a buffer section having a plurality of buffers and a cell reading section for reading data from the buffer section (e.g. shared buffer 62, blocks 71b, and 71c in Fig. 8);

a data input/output device, which comprises a data, input section for inputting data from an external source, a data output the data, and a first data transceiver section for performing reception and transmission with respect to the data (e.g. the mux 61 and demux 64 combined, in Fig. 7);

a data processing device which comprises a second data transceiver for performing reception and transmission of data in connection with the first data transceiver section (e.g. the QoS control portion 70), a data analysis section for analyzing the data received from the second data transceiver and a data reading/setting section (illustrated in Fig. 8);

and wherein the data input/output device is capable of inputting and outputting data regarding a service class of a buffer as a service category and a QoS class (e.g. col. 18, lines 35-41, lines 54-67).

Soumiya fails to teach the data processing device is capable of adding and storing new data regarding at least one of a new service category and a new QoS class. Ichikawa teaches the buffer regarding to the QoS (col. 8, lines 25-38) for providing new category and QoS class in communication system. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of changing a state of buffer to meet the QoS and control the traffic in the communication for reducing congestion at the buffer and switching system.

Allowable Subject Matter

6. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 10/27/03 have been fully considered but they are not persuasive.

Applicant's arguments that "an existing QoS class, not a new QoS class" (page 8). Examiner respectfully disagree. The new category and new QoS class are existed and reused as specification (page 19, lines 22-23) teaching.

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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
1/8/04



DANG TON
TRAM/EXAMINER